IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3158 of 1988

For Approval and Signature:

HON'BLE DR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

C K SHAH AND ORS.
Versus
NAGAR PANCHAYAT, LAKHTAR, AND ORS.

Appearance:
1. Special Civil Application No. 3158 of 1988
MR. P.J. YAGNIK for Petitioner No. 1-3/2
MR. L.B. DABHI, ASSISTANT GOVERNMENT PLEADER,
for Respondent Nos. 1,2,3-4
MR. PRANAV RAVAL for
MR. D.D. VYAS for Respondent No. 2

CORAM : HON'BLE DR.JUSTICE J.N.BHATT

Date of decision: 11/08/2004

ORAL JUDGEMENT

1. Though originally the petition came to be filed by the three petitioners, unfortunately, when the matter came up for Final Hearing, almost, after one and a half decades (what a travesty of justice!), it was stated at the Bar by Mr. Yagnik, learned Advocate for the petitioners, that petitioner No.1 has already got the benefits and, therefore, no question survives insofaras

petitioner No.1 is concerned. He further contended that insofar as petitioner No.2 is concerned, who was working at the relevant time as Secretary, Lakthar Gram Panchayat, he had voluntarily retired wef 31-07-2000, whereas the original petitioner No.3, Mr. Dave, passed away during the pendency of the petition and, therefore, the heirs are brought on record with the permission of the Court. Thus, the short question, which now falls in the focus for the consideration and adjudication in this petition, under Article 226 of the Constitution of India, is, as to whether the claim made for and on behalf of the petitioner Nos.2 and 3 for the grant of revised pay-scale for the post of the Secretary, Gram Panchayat and for the post of Sanitary Inspector, pursuant to the Government's decision to accept the Desai Pay Commission and resultant Revision of Pay Scale ("RoP", for short) Rules 1975, which came to be operative by order wef 01-01-1973, could be sustained. On behalf of petitioner Nos.2 and 3, it has been contended, even at the time of the hearing, that they have not been thus so far paid the revised pay-scales in terms of the RoP Rules 1975, which had resulted from the Second Pay Commission known as `Desai Commission'.

2. The learned Advocates appearing for the parties are heard. They have taken this Court through the relevant material and documentary evidence placed on record coupled with the affidavits filed on behalf of the parties. Respondent No.1 is the Nagar Panchayat (who is hereinafter referred to as the "Panchayat" concerned); Respondent No.2 is the District Development Officer of District Panchayat, Surendranagar (who is hereinafter referred to as the "DDO"); respondent No.3 is the Development Commissioner (who is hereinafter referred to as the "Commissioner"); whereas, respondent No.4 is the State of Gujarat. Respondent Nos. 1,2 and 3 have not filed affidavits-in-reply whereas affidavit-in-reply is filed on behalf of respondent No.4 by Mr. R.S.Acharya, Under Secretary, Government of Gujarat, Panchayat and Rural Housing Department. This Court has taken into consideration dispassionately the documentary evidence, the submissions as well as the affidavits on record.

3. Looking to the claim of the petitioners and their posts, it will be necessary to highlight the following important and relevant factual profile emerging from the record:

(A) Cadre : Medical Officer

Pay-Scales wef

01-06-1967 : Rs.325-575
01-01-1973 : Rs.500-900
01-01-1986 : Rs.1640-2900

(B) Cadre : Secretary, Nagar Panchayat

Pay-Scales wef
01-06-1967 : Rs.200-300
01-01-1973 : Rs.380-600
01-01-1986 : Rs.1350-2200

(C) Cadre : Sanitary Inspector (Qualified)

Pay-Scales wef
01-06-1967 : Rs.175-575
01-01-1973 : Rs.330-560
01-01-1986 : Rs.1350-2200

(D) Cadre : Sanitary Inspector (Non-Qualified)

Pay-Scales wef
01-06-1967 : Rs.130-240
01-01-1973 : Rs.260-400
01-01-1986 : Rs.950-1500

(E) Cadre : Secretary, Gram Panchayat

Pay-Scales wef
01-06-1967 : Rs.125-200
01-01-1973 : Rs.260-400
01-01-1986 : Rs.950-1500

4. The original petitioner No.2 was working as a Medical Officer under respondent No.1, which is a Panchayat constituted under the Gujarat Panchayats Act. His claim is settled and, therefore, on his behalf, the petition is not pressed as stated hereinbefore. That obviously would not detain this Court for further examination and meticulous discussion. So far as petitioner No.2 is concerned, he was working at the relevant time as Secretary, Lakthar Gram Panchayat, which later on came to be converted into Nagar Panchayat and known as Lakthar Nagar Panchayat. Original petitioner No.3 died during the pendency of the petition on 08-12-2002, who had retired on superannuation wef 01-02-1994 and who was working as a Sanitary Inspector in the Panchayat.

5. After having taken into consideration the entire factual profile and the submissions raised before this Court and the statement of Mr.Dabhi, learned Assistant

Government Pleader, that insofar as petitioner Nos.2 and 3 are concerned, their cases will be considered on merits for monetary benefits and incedental benefits on account of the report of the Desai Pay Commission, which came to be accepted by the Government and followed by RoP Rules, 1975. It is, really, quite a frank and candid statement. Since the claim made by those two petitioners are yet not considered for the benefits of RoP Rules, 1975, respondent No.4 is directed to consider the case of both the petitioners i.e. Nos. 2 and 3 in accordance with the law in light of appropriate and relevant pay-scales amd applicable to their cases, as expeditiously as possible, but not later than 2nd October, 2004, as the matter is more than 16 years old.

6. Accordingly, the petition shall stand allowed. Rule made absolute to that extent without any order as to costs. Office is directed to transmit the writ immediately to the respondent-authorities.

(J. N. BHATT, J.)

/shamnath